IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2706 of 2005

Between:

Mr. Syed Nawab Jani, S/o. Mohinuddin, Fair Price Shop Dealer
R/o. H.No. 1-35, Kogilvai (V), Athmakur Mandal, Warangal District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Warangal.
2 The Mandal Revenue Officer, Athmakur Mandal, Warangal District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the action of the respondents in not concluding the enquiry and passing the appropriate orders in pursuance of the orders passed in Appeal No. 31 of 2004 dt. 17-11-2004 of the Court of the Joint Collector, Warangal, within two weeks from the date of receipt of the orders as arbitrary, illegal, unfair, unjust and violative of Articles 14 and 19(1) (g) of the Constitution of India and consequently direct the respondents to reinstate the petitioner as the Fair Price Shop dealer of Kogivai Village, Athmakur Mandal, Warangal District, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.P.KESAVA RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is the dealer of a fair price shop of Kogilvai Village, Athmakur Mandal, Warangal District. The Revenue Divisional Officer, Warangal, the 1st respondent, suspended his authorization through order, dated 03.09.2004. The basis for suspension is the letter, dated 06.08.2004, addressed by the Collector (CS). Aggrieved by the order of suspension, the petitioner preferred an appeal together with an application for stay before the Joint Collector, Warangal, who happens to be the Collector (CS). Through his order, dated 17.11.2004, the Joint Collector refused to interfere in the matter, but directed the 1st respondent to conclude the proceedings, within two weeks from the date of receipt of the order. The complaint of the petitioner is that though more than two months have elapsed from the date of order of the Joint Collector, the 1st respondent has not taken any steps, and it is only on 17.01.2005, that a show cause notice just repeating the order of suspension verbatim was given. He seeks appropriate directions in this regard.

Heard the learned counsel for the petitioner and the learned Government pleader for Civil Supplies.

The 2nd respondent suspended the authorization of the petitioner solely on the basis of a letter, dated 06.08.2004, addressed by the Collector (CS). The 1st respondent was directed by the Collector to take three steps, namely, to initiate proceedings under the Control Order; initiate criminal proceedings and to recover cost of 39.71 Qtls of rice. The basis for this action is said to be a finding said to have been

recorded during the enquiry by the Deputy Tahsildar, to the effect that the petitioner colluded with the Vidya Committee Chair Person and diverted 39.71 Qtls of rice. The involvement of the petitioner is not indicated. It is not as if any notice was issued to the petitioner before this definite finding was recorded. At any rate, the proceedings were not initiated on any satisfaction or opinion of the 1st respondent, but purely on the directions of a superior officer. The sad part of the matter is that even while issuing show cause notice, the 1st respondent repeated the first paragraph of the order of suspension. It would be just impossible for anyone to respond to such notices, unless the allegations are clear and specific.

Be that as it may, the order of suspension was passed way back on 03.09.2004, and it continues even now. A Division Bench of this Court in ***JOINT COLLECTOR Vs. A.NEELIMA*** took the view that suspension of a dealer pending enquiry cannot be continued beyond 90 days, except where the delay is attributable to the dealer himself. In the instant case, the show cause notice was issued nearly four months after the order of suspension. The 1st respondent did not move in the matter even after the Collector (CS) directed him to conclude the proceedings within two weeks from the date of receipt of the order, dated 17.11.2004.

In that view of the matter, the writ petition is allowed and the order of suspension, dated 03.09.2004, passed against the petitioner is set aside and the petitioner shall be entitled to function as fair price shop dealer. It is, however, made clear that this order shall be without prejudice to the right of the 1st respondent to proceed against the petitioner in accordance with law for the alleged violations. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 16.02.2005

Note: Furnish copy

in two days

(B/o)

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To

1 The Revenue Divisional Officer, Warangal.
2 The Mandal Revenue Officer, Athmakur Mandal, Warangal District.

3 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

4 2CD copies.